



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500167993

**Erf 109 and Re 772, 5 Elgar Close,
Mandalay**

Development Management

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**APPLICATION MADE IN TERMS OF SECTIONS 42(A), 42(B),
42(D) & 42(F) OF THE MUNICIPAL PLANNING BY-LAW, 2015
(MPBL): ERF 109 & REMAINDER ERF 772 MANDALAY, 5
ELGAR CLOSE & 34 AUBER AVENUE**

JULY 2026



NOKWINDLA EQUINOX
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Application description

Applications made in terms of the Municipal Planning By-Law, 2015:

- Section 42(a) to rezone the consolidated property from Single Residential Zone 1 to General Residential Subzone GR2.
- Section 42(b) for departures, as set out below, relating to setbacks, boundary wall permeability and parking.
- Section 42(d) for subdivision of Remainder Erf 772 Mandalay to create a Portion 1 measuring an extent of 255m².
- Section 42(f) for the consolidation of Erf 109 Mandalay with Portion 1 of Remainder Erf 772 Mandalay.

The following departures from the Development Management Scheme:

- Item 41(e): To permit a block of flats to be setback 2.1m in lieu of 4.5m from Auber Avenue
- Item 41(e): To permit the block of flats to be setback 0.542m in lieu of 4.5m from Swartklip Road.
- Item 41(e): To permit a covered entrance exceeding 5m² to be setback 3.31m in lieu of 4.5m from Elgar Close.
- Item 121(2): To permit a block of flats to be setback 0.542m in lieu of 5m from Swartklip Road/ a designated metropolitan road.
- Item 136B: To permit a street boundary wall on Auber Avenue and Swartklip Road to have 0% visual permeability in lieu of 25%.
- Item 137: To permit 21 in lieu of 30 parking bays.

Background:

An application for consent to permit a place of worship was submitted in 2016. The application involved departures related to street & common boundary building lines and parking. The application refused was refused by the Municipal Planning Tribunal.

A building plan application for additions and alterations to an existing dwelling house was submitted in 2024. The application involved the creation of a second dwelling, domestic staff quarters, a garage and a carport. The building plan 1700549063 was cleared and approved. The construction has been completed

All previously approved and existing structures (besides parts of boundary walls) are proposed to be demolished in order to accommodate on-site parking.

An application for rezoning and departures for Erf 109 Mandalay was submitted in 2025 (1500159081). The application was refused acceptance due to failure to submit the requested additional information timeously. This application materially differs from the application that was refused acceptance and will therefore be submitted under a new case ID.

Description of the area / surrounding land uses

The area is characterised as being a middle-income, mixed-use area, containing detached dwelling houses, places of worship, place of instruction, service station and retail. The area is further characterized by the busy nature of Auber Avenue, Swartklip & Lwandle Roads.

Zoning

Erf 109 Mandalay is zoned Single Residential Zone 1 and is surrounded by similarly zoned properties, properties zoned Single Residential Zone 2, Community Zone 1, Utility and General Residential Subzone GR2 and General Residential Subzone GR2. While Erf 772 Mandalay is a portion of road and is zoned Transport Zone 2.

Property description

The consolidated property is bounded by Swartklip Road to the east, Auber Avenue to the north and partially by Elgar Close to the southwest. The property is medium sized and developed with a single storey dwelling house, second dwelling and domestic staff quarters located on the most southern part of the property. The portion of Re Erf 772 to be consolidated is vacant.

MOTIVATION IN TERMS OF SECTION 99 OF THE MPBL:

Consideration of criteria in terms of Section 99(1):

Compliance or consistence with the municipal spatial development framework:

- Majority of the subject property falls within an area identified as the *Urban Inner Core* in terms of the Municipal Spatial Development Framework (MSDF). The proposal is consistent with the MSDF as the proposal will result in land use intensification and the provision of affordable housing.
- The property is located within a PT1 zone, the proposed level of densification supports the principles of TOD which informs policies for land use modelling in support of land use intensification. The proposed flats support the desired spatial outcomes of properties within the Urban Inner Core. Furthermore, the proposal will facilitate a different kind of housing typology, for a lower earning market in a well-located area.
- The proposed rezoning aligns with MSDF principles by:
 - Encouraging compact urban development in a strategic location with strong transport links.
 - Promoting residential intensification near public transport corridors, supporting transit-oriented development (TOD) objectives.
 - Enhancing spatial justice by increasing affordable housing opportunities in an area with good access to economic and social amenities.
 - Leveraging high-exposure routes to support greater accessibility, connectivity, and economic activity in the area.

Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?

- No, the floor space and height of the proposed flats comply with the proposed development guidelines as set out in GR2 in terms of the Development Management Scheme.

I am satisfied that the considerations in Section 99(1) have been correctly assessed.

Consideration of criteria in terms of Section 99(2):

Any applicable spatial development framework:

- The application is consistent with the Municipal Spatial Development Framework.
- In terms of the District Plan, the property is located within Sub-district 2, within a Development Corridor. Swartklip Road is a development corridor where higher-intensity development is supported along transport routes.

Relevant criteria contemplated in the DMS:

- N/A

Applicable policy or strategy approved by the City to guide decision making:

- The property is located within PT1 area and close to public transport routes and opportunities. The proposal supports the Transit Orientated Strategic Development Framework which promotes residential densification close to transport opportunities and along development corridors.
- The proposal supports the Densification Policy.
- The proposal supports the Inclusive Economic Growth Strategy. Approval of the proposal ensures housing provision for individuals who would not otherwise afford to reside in the area, including a market that is not adequately provided for.
- The proposal supports Objectives 5 and 6 of the Urban Design Policy.
- **Obj 5:** The proposal introduces development intensity on a property suitably located. The site is not necessarily embedded in the single residential area as it interfaces busy roads, this level of intensification is thus context specific and sympathetic to the character of the area.
- **Obj 6:** The proposal contributes to the public realm and Auber Avenue. The introduction of street facing balconies ensures a positive interface with the public space.

Consideration in terms of Section 99(3) of the desirability of the following criteria:

a) Socio-economic impact:

- The application will have a positive socio-economic impact.
- The proposal will lead to added investment to the property and the greater area.
- Accommodation opportunities are provided for a market much in need for well-located property close to public transport opportunities.

b) Compatibility with surrounding uses:

- The proposal is compatible with the surrounding uses.
- The proposal is entirely residential and is compatible with the surrounding uses.
- The proposed rezoning and departures will not have any negative impact on neighbouring owners.
- The block of flats to the highest point measures 10.1m to the top of the roof. The proposed height is 0.1m higher than 10m which is allowable for the Residential 1 properties in the surrounding area.
- There are no departures from the common boundaries.

- The block of flats is located to the north of the property, closest to Auber Avenue. This ensures that the property abutting to the west is not affected by overshadowing.
 - There are no openings facing the common boundary which ensures there is no impact on privacy.
 - The road widening scheme of Swartklip Road is no longer active, therefore, buildings closer than 5m from such road will not have a detrimental impact on Council's plans for expansion.
 - Structures 0m from Swartklip Road are not uncommon in the wider area.
 - Nonvisual permeability for boundary walls on busy intersections is not uncommon. The boundary wall at 2m is low and matches that of the neighboring property. The introduced splay will ensure that sightlines are maintained at the intersection of Auber Avenue and Swartklip Road.
- c) Impact on the external engineering services:**
- The rezoning will ensure effective use of existing engineering services.
 - A DC charge will be payable in support of services upgrades and maintenance.
 - The GR2 zoning is of a higher land use intensification, therefore, the rates of the property rates will increase which translates to higher tax collection in benefit of the City.
- d) Impact on safety, health and wellbeing of the surrounding community:**
- The property will not have a negative impact on safety, health and wellbeing of the surrounding community.
 - The block of flats will improve passive surveillance of the neighbouring properties and the greater area.
 - The balconies overlooking Auber Avenue are a welcome addition to overlook the street which is currently riddled with muggings/ petty crimes.
 - A guard will be on-site 24/7 to ensure community and property safety.
- e) Impact on heritage:**
- The property is not located within a Heritage Protection Overlay Zone and the buildings on the property are not older than 60 years; there will be no impact on heritage.
- f) Impact on the biophysical environment:**
- There will be no impact on the biophysical environment, the area is not environmentally sensitive.
- g) Traffic impacts, parking, access and other transport related considerations:**
- The property is located in a PT1 zone where decreased parking is encouraged in order to support the operation of public transportation.
 - The property is located in an area where car ownership is low. The flats (bachelors) are designed for a lower income demographic which rarely owns vehicles.
 - The magnitude of the departure (shortfall of 9 parking bays) is minor and is not anticipated to affect the traffic conditions of the area.
 - It has been confirmed that the road widening scheme for this area of Swartklip Road is inactive.
- h) Conditions that can mitigate an adverse impact of the proposed land use:**
- The conditions imposed by Council will be complied with.

Impact on existing rights:

- The proposal will not have a significant impact on existing rights.
- There are no restrictive titledeed restrictions prohibiting the proposed use.

- The floor space will be reduced from 1500m² to 920m² for Erf 190 as a result of the rezoning which limits GR2 properties to a floor factor of 1. With the consolidation of Portion 1 of Remainder Erf 772, the permissible floor space remains lower (1172m²) than 1500m² permitted prior rezoning.
- While SR1 properties of this size have no coverage limitation, the GR2 zoning has a coverage limit of 60%. The proposed coverage is less than that of SR1 properties of any size.
- The height of the building is not excessive, nor is the massing. The abutting dwelling house is setback to the south of the property and will not be affected by the proposed structure.

Impact of the consolidation

- The development rules will not change as a result of the consolidation.
- The resultant floor space will increase considering the added extent of the property. A total floor space of 696m² is proposed, in this regard, it is noted that the floor space proposed is less than what would be permitted without the consolidation.
- The building is placed on the northern most part of the property, away from the single storey residential dwellings abutting to the west and south.
- The massing of the proposed building will not impact on the neighbouring properties.
- The consolidation ensures that a suitable number of on-site parking bays is provided and facilitates adequate circulation within the property.

Other considerations prescribed in relevant national or provincial legislation:

- **Principle of spatial justice:** Indirectly, contextually appropriate densification, such as this proposal, will cumulatively (at a city-wide scale) contribute to spatial justice in terms of taking off pressure for development elsewhere that drives the poor to the periphery of the city. In other words, low densities close to areas with good opportunities displaces other people to worse located land. The biggest impact is on the urban poor. The proposal will also make more freehold land ownership opportunities in this sought after-area.
- **Principle of spatial sustainability:** Contextually appropriate densification, such as this proposal, will contribute to environmental sustainability by reducing pressure on valuable agricultural and natural land. Such applications effectively act to reduce urban sprawl and result in the better use of land (which is a scarce resource) and existing municipal services.
- **Principle of efficiency:** Contextually appropriate densification, as is the case in this instance, results in the more efficient use of land and municipal resources.
- **Principle of spatial resilience:** Contextually appropriate densification, as is the case in this instance, facilitates spatial resilience in that it offers a variety of land uses.
- **Principle of good administration:** The proposal has been submitted in accordance with the relevant laws.

Whether the application complies with the requirements of the MPBL:

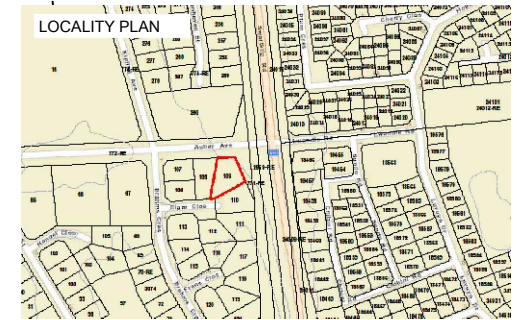
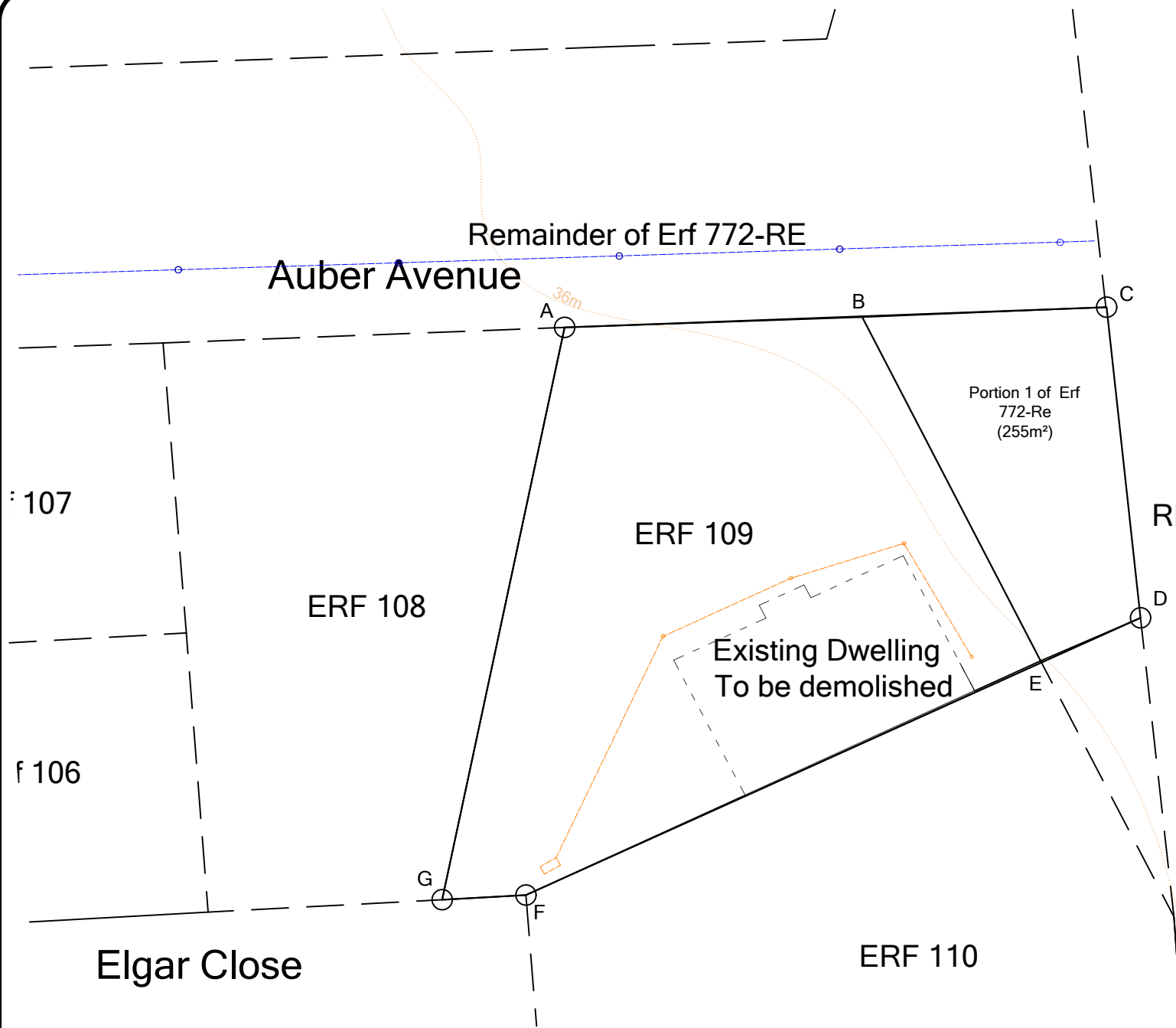
- The application complies with the basic requirements of the MPBL.
- There is no land use or building work contravention related to the proposed block of flats.

Conclusion:

The proposal supports the desirability criteria in terms of Section 99 of the Municipal Planning By-Law and supports the Transit Orientated Development Strategic Framework, Densification Policy, Urban Design Policy & the Inclusive Economic Growth Policy.



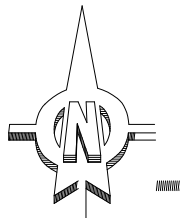
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RE-2959

RE-771

Swartkulp Road



NOTES:

1. Figure ABEFG represents Erf 109 Mandalay measuring extent of 920m².
2. Erf 109 Mandalay is zoned Residential 1 (R1)
3. Figure BCDE represents Portion 1 of Erf 772-RE measuring extent of 255m².
4. Portion 1 of Erf 772-RE current zoning is Transport 2 (TR2)
5. Figure ABCDEFG represents Consolidated Portion measuring extent of 1175m².
6. Consolidated Portion proposed zoning is General Residential 2 (GR2)

LEGEND

- Subject Property
- Existing Erven
- Existing Infrastructure
- Existing Approved Dwelling

PROJECT

**APPLICATION FOR CONSOLIDATION OF
ERF 109 and Portion of RE-772 MANDALAY**

DRAWING

CONSOLIDATION PLAN

CLIENT

PLAN NO.

Cons_Mandalay_01

SCALE

1 : 400 on A4

DRAWN:
CHECKED:
DATE:

VPS
08/07/2026

APPLICANT

